THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.23061 OF 2005

17.03.2006

Between:

N.Ravi Prasad Babu, S/o.Ramanaiah

… Petitioner

AND

Government of Andhra Pradesh, rep., by Prl. Secretary,

Municipal Administration & Urban Development Department,

Secretariat, Hyderabad

And others

… Respondents

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ORDER:

The petitioner filed the instant writ petition assailing the memo issued by the first respondent bearing Memo.No.11136/W1/2005-1 dated 19.08.2005. Be it noted that by impugned memo, the Government permitted the second respondent, namely, the Commissioner, Municipal Administration, to allot fish market (Dycus Road), Nellore Municipal Corporation to Fisher Women Cooperative Society, Nellore for a period of one year i.e., 2005-2006 by taking the average of past five years lease as present lease amount for the year 2005-2006 as a special case.

The petitioner claims himself to be a businessman engaged in fish business. He also allegedly obtained a licence from the Municipal Corporation. The fish market known as Dycus Road market is owned by the Municipal Corporation and is situated in the notified vegetable and mutton market area. From 1998-1999 on wards to 2003-2004, Nellore Municipal Corporation was auctioning the right to collect market fee in Dycus Road market. For the year 2004-2005, a notification dated 14.6.2004 was issued for auctioning the right to collect market fee. The fourth respondent filed W.P.No.10169 of 2004 seeking a direction to the respondents 2 and 3 to consider representations for allotment of the market without auctioning the same. This Court

disposed of the writ petition directing the second respondent to consider the representation. Pursuant to the directions, the request of the fourth respondent was considered and it was decided to lease out the market to the fourth respondent for the year 2004-2005. Again, when the notification dated 01.4.2005 was issued for the year 2005-2006, the fourth respondent filed W.P.No.7797 of 2005 and many bidders participated in the auction. The bids could not be finalized as the first respondent issued the impugned memo to lease out the fish market to the fourth respondent for the year 2005-2006.

The petitioner contends that if the auction is conducted, the market would fetch approximately Rs.1,45,000/-, but the petitioner is prepared to pay an amount of Rs.4,00,000/- during the year 2005-2006 for the right to collect market fee in the market. If the market is allotted for collection of market fee without conducting auction, it would be in violation of Section 534 of Hyderabad Municipal Corporations Act, 1955 (HMC Act). Therefore, the petitioner seeks a writ of Mandamus declaring the impugned order as illegal and invalid.

The Commissioner of third respondent Corporation filed a counter affidavit explaining the reasons for allotting the market to Nellore Town Fisherwomen Cooperative Society represented by its President Smt.P.Aruna. It is also stated that after obtaining necessary instructions from the Government, the market was leased out to the society referred to herein above for the year 2005-2006.

Heard the learned Counsel for the petitioner, learned Standing Counsel for Nellore Municipal Corporation and learned Standing Counsel for Nellore Town Fisherwoman Cooperative Society.

M/s.Nellore Fisher Workwomen Cooperative Society is arrayed as fourth respondent. By impugned order/memo dated 19.8.2005, the Government permitted the Commissioner, Municipal Administration, to allot the fish market to M/s.Nellore Fisher Women Cooperative Society. Curiously, Smt.P.Aruna claiming herself to be President of Nellore Town Fisherwomen Cooperative Society filed the writ petition. If the market was allotted to Nellore Fisher Women Cooperative Society, I failed to understand how the writ petition could be maintainable without impleading the actual society to which the market was allotted. Therefore, for this reason alone, the writ petition is liable to be dismissed. Secondly, the learned Standing Counsel for Nellore Municipal Corporation submits that it is proposed to conduct auction to lease out the right to collect market fee in the Dycus Road market for the year 2005-2006 and accordingly a draft notification is sent to the District Gazette for publication. In that view of the matter, this writ petition is disposed of, directing Nellore Municipal Corporation to allow the society to which the market was allotted as per the impugned memo till 31.3.2006 and before that date conduct auction leasing out the right to collect market fee in the fish market (Dycus Road), Nellore.

The writ petition, with the above observations, is accordingly disposed of. No costs.

(**V.V.S.RAO,J**)

March 17, 2006.

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